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5 IN THE UNITED STATES DISTRICT COURT
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10 FOR THE DISTRICT OF UTAH, NORTHERN DIVISION
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18 UNITED STATES OF AMERICA,)
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21)
22 Plaintiff,)
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24)
25 vs.) Case 1:11CR0087
16 DARIN FRONK CLARK,)
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19 BEFORE THE MAGISTRATE BROOK WELLS

20 JUNE 20, 2012

21 REPORTER'S TRANSCRIPT OF PROCEEDINGS

22 CHANGE OF PLEA HEARING

23
24 Reported by: KELLY BROWN, HICKEN CSR, RPR, RMR
25

1 A P P E A R A N C E S

2 FOR THE PLAINTIFFS: OFFICE OF THE US ATTORNEY

3 BY: CAROL A. DAIN

4 Attorney at Law

5 185 SOUTH STATE STREET, 400

6 Salt Lake City, Utah 84111

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8 FOR THE DEFENDANT: DEIRDRE A. GORMAN

9 Attorney at Law

10 205 26TH ST., STE 32

11 OGDEN, UTAH 84401

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1 SALT LAKE CITY, UTAH, WEDNESDAY, JUNE 20, 2012

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3 THE COURT: Good afternoon, everyone. The first
4 matter for consideration on this afternoon's calendar is case
13:15:21 5 Number 1:11-CR-87 assigned to Judge Campbell. This is
6 United States of America vs. Darin Fronk Clark. United States
7 is represented by Ms. Carol Dain. Mr. Clark is personally
8 present with counsel Ms. Deirdre Gorman.

9 Let me indicate that prior to this hearing, a half
13:15:45 10 an hour or so ago, I ran into Mr. Clark, and maybe it's his
11 mom in the hallway as they were looking for this courtroom. I
12 gave them directions, but we did not have any discussions
13 about the matter.

14 Mr. Clark, it's my understanding, sir, that you
13:16:07 15 have reached an agreement with the United States whereby you
16 intend to offer a plea of guilty to Count One of the
17 indictment, which is a violation of Title 18 United States
18 Code Section 2251A, production of child pornography. Is that
19 your intention today, sir?

20 THE DEFENDANT: Yes.

21 THE COURT: Sir, your case is assigned to District
22 Judge Tena Campbell. I am a magistrate judge. And you are
23 entitled to have Judge Campbell consider and accept your plea
24 except in a circumstance where she has referred this to me and
13:16:53 25 you have consented to my contemplation of taking your plea and

1 my authority over this hearing. And I have received a
2 document entitled, Consent to Entry of Plea of Guilty Before
3 the Magistrate Judge and Order of Reference, which was signed
4 by you.

13:17:16 5 Do you understand, sir, that even if you consent to
6 my consideration and potential acceptance of your plea today
7 that sentencing authority and further legal jurisdiction over
8 the case would remain with Judge Campbell?

9 THE DEFENDANT: Yes.

13:17:36 10 THE COURT: All right. Knowing that, sir, do you
11 still consent to my consideration of your plea today?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Then based upon that
14 discussion in court, as well as receipt of the written consent
15 form, I will accept that consent, and this document will
16 become part of the record in this case. I also acknowledge at
17 this time receipt of an additional document which is sealed
18 which is accepted in the general course of business now within
19 the Court, which will also become part of the agreement.

13:18:17 20 Mr. Clark, you are presently charged by indictment
21 with the offense of production of child pornography. Do you
22 understand, sir, that if you plead guilty today United States
23 will be relieved of all responsibility to prove that charge
24 against you?

13:18:40 25 THE DEFENDANT: Yes.

1 THE COURT: And do you understand, sir, that in the
2 event you went to trial on the matter you could not be
3 convicted of that offense unless the evidence of the
4 United States proved each of the following elements beyond a
5 reasonable doubt: First, that you, sir, knowingly employed,
6 used, persuaded, induced, enticed or coerced; second, any
7 minor; third, to engage in any sexually explicit conduct;
8 fourth, for the purpose of producing any visual depiction of
9 such conduct; and, fifth and finally, and knows -- and there
10 it's referring to you, sir, and knows or has reason to know
11 that the visual depiction was produced using materials that
12 have been transported in interstate commerce.

THE DEFENDANT: Yes.

16 THE COURT: All right. Sir, do you understand that
17 if I should accept your plea to that offense today that the
18 maximum possible penalty provided by law for that offense is a
19 maximum term of imprisonment of 30 years and a mandatory
13:20:11 20 minimum term of 15 years and a fine of \$250,000 -- \$250,000
21 followed by a term of supervised release of up to life? Do
22 you understand those to be the maximum possible penalties you
23 face?

24 THE DEFENDANT: Yes, I do.

13:20:29 25 THE COURT: Sir, do you understand if during the

1 period of time that you are on supervised release you violate
2 those terms you could be returned to prison for the length of
3 time provided by federal statute?

4 THE DEFENDANT: Yes.

13:20:45 5 THE COURT: Additionally, sir, do you understand
6 that at the time that sentence is imposed upon you if I accept
7 your plea that Judge Campbell will be required to impose
8 against you an assessment in the amount of \$100 for each
9 offense of conviction, and that it's required by federal
13:21:08 10 statute?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. And in this instance, if I
13 accept your plea, that would be for a total of \$100.

14 Sir, have you reviewed carefully with Ms. Gorman
13:21:22 15 the sentencing procedures that are in place for this case if
16 your plea is accepted?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that an ultimate
19 sentence calculation will be determined pursuant to United
13:21:41 20 States Sentencing Guidelines? And those are calculations
21 which I'm sure Ms. Gorman has gone over with you. Do you
22 understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. And that at the time of
13:21:53 25 sentencing, the Court, Judge Campbell, must consider but will

1 not be bound by those United States Sentencing Guideline
2 calculations in determining your sentence. And do you also
3 understand that the final calculation of a sentence by the
4 Court, Judge Campbell, may differ from any calculation made by
13:22:22 5 the United States, by your counsel or by you, and that if
6 there are differences, that will not be a basis legal basis
7 for you to move to withdraw your plea?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. Sir, I know nothing about
13:22:41 10 your background. And this is not included in the written
11 statement, but I want to ask it, anyway. In the event, sir,
12 that you are not a United States citizen, do you understand
13 that a conviction is likely to have negative consequences on
14 your immigration status? And in the event that that applies
13:23:09 15 to you, sir, have you discussed it with Ms. Gorman? It may
16 not apply.

17 THE DEFENDANT: It doesn't apply.

18 THE COURT: All right. But I wanted to make it
19 certain. You know, I'm don't think anyone that necessarily
13:23:24 20 looks at or knows what a person's citizenship may be.

21 All right. Sir, at this time I'm going to ask that
22 you be placed under oath, and I'm going to ask you a series of
23 questions designed to satisfy myself that you are legally
24 competent to consider offering a plea of guilty.

13:23:50 25 THE CLERK: Please raise your right hand.

1 (Defendant is sworn.)

2 THE CLERK: If so, please say I do.

3 THE DEFENDANT: I do.

4 THE CLERK: Thank you. You may be seated.

13:24:04 5 THE COURT: Sir, how old are you?

6 THE DEFENDANT: 44.

7 THE COURT: And what is the highest level of
8 schooling that you've completed?

9 THE WITNESS: I'm sorry, ma'am?

13:24:13 10 THE COURT: Highest level of schooling?

11 THE DEFENDANT: 14.

12 THE COURT: And you read, write and understand
13 English; correct?

14 THE DEFENDANT: Yes.

13:24:21 15 THE COURT: That's clear to me based upon my
16 conversations with you. Do you believe that you understand
17 these proceedings as they're happening today, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: Sir, have you had the opportunity to
13:24:33 20 review a document entitled, Statement By Defendant in Advance
21 of Plea of Guilty, which has been prepared for your potential
22 signature?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. And have you reviewed the
13:24:48 25 contents of that document yourself?

1 THE DEFENDANT: Yes.

2 THE COURT: Have you had the opportunity to discuss
3 its consent with Ms. Gorman?

4 THE DEFENDANT: Yes.

13:24:57 5 THE COURT: Do you have any questions, sir, about
6 the contents of this document that you wish to ask either
7 Ms. Gorman or me or any changes at this time that you would
8 propose to the content?

9 THE DEFENDANT: No.

13:25:11 10 THE COURT: Do you understand, sir, that the
11 document is intended to encompass the entire agreement that
12 you have reached with the United States? In other words,
13 there aren't any side agreements; is that your understanding?

14 THE DEFENDANT: I'm sorry, ma'am?

13:25:30 15 THE COURT: As -- do you understand that this
16 written document, which I will ask you to sign at a later
17 time, contains the entire agreement reached between you and
18 the United States? In other words, there are no side
19 agreements.

13:25:48 20 THE DEFENDANT: Yes.

21 MS. GORMAN: Your Honor, may at this time I should
22 put something on the record. It is correct that there are no
23 side agreements with the government. This is our plea deal.
24 But there is another party perhaps involved in this. It is
13:26:04 25 the state of Utah by way of Box Elder County attorney's

1 office. Ms. Dain and I both had an opportunity to speak with
2 Brandon Maynard, the prosecutor who could potentially file
3 charges. And that was part of our -- what took so long to
4 settle this case. But Mr. Maynard has indicated to the both
13:26:23 5 of us that I would like on the record that due to Mr. Clark
6 being convicted in federal court, Box Elder County will not be
7 filing any charges. In fact, the case was screened last
8 September. He's declined to do that. And he is aware that I
9 was putting that on the record today. And I believe he spoke
13:26:44 10 with Ms. Dain, too.

11 THE COURT: Ms. Dain; is that correct?

12 MS. DAIN: Yes, Your Honor, I spoke with the
13 attorney, and he did indicate that they have reviewed the
14 case, and with the proceedings here in federal court they will
13:26:54 15 not be pursuing any further charges.

16 THE COURT: All right. Mr. Clark, I'm certain as
17 this is a matter that has come up today, you've had much
18 opportunity to discuss it with Ms. Gorman. And while I accept
19 and the record reflects that a state's attorney has indicated
13:27:18 20 that charges won't be filed against you in Box Elder County, I
21 have and the federal courts have no authority over them. And
22 while I suspect that that is correct and you've made it part
23 of the record, I just want to make certain that you understand
24 that this Court has no jurisdiction and cannot enforce that.
13:27:48 25 We can't require them to file anything. We can't require them

1 not to file anything. Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Knowing that, sir, and
4 knowing that this Court does not have authority over any state
13:28:05 5 entity and any state charges, do you still wish to go forward
6 today?

7 THE DEFENDANT: Yes.

8 THE COURT: Sir, other than what has been placed
9 upon the record and other than recommendations which may be
13:28:22 10 made by either or both parties at the time of sentencing, have
11 any threats or promises or other representations been made to
12 you that are causing you to offer a plea of guilty today?

13 THE DEFENDANT: No.

14 THE COURT: All right. Have -- has either your
13:28:44 15 lawyer or any representative of the government, and in this
16 case it would be the federal government with reference to the
17 state's attorney, told you that you would receive probation or
18 any other form of leniency because of your plea?

19 THE DEFENDANT: No.

13:29:06 20 THE COURT: Have you discussed the case against
21 you, sir, and your plea with Ms. Gorman as much as you want
22 to?

23 THE DEFENDANT: Yes.

24 THE COURT: Any questions you want to ask of her
13:29:19 25 now?

1 THE DEFENDANT: No.

2 THE COURT: Sir, are you satisfied with
3 Ms. Gorman's services as your lawyer?

4 THE DEFENDANT: Yes.

13:29:26 5 THE COURT: Regarding your decision to enter into
6 this plea agreement and to offer a plea today, was that
7 decision made after full and careful thought?

8 THE DEFENDANT: Yes.

9 THE COURT: Was it made with the advice of your
13:29:41 10 lawyer?

11 THE DEFENDANT: Yes.

12 THE COURT: Was it made with the full understanding
13 of your rights under the United States Constitution?

14 THE DEFENDANT: Yes.

13:29:49 15 THE COURT: Was it made with a full understanding
16 of the facts and circumstances of your case including the
17 evidence that would be likely against you as well as any
18 defenses you might have?

19 THE DEFENDANT: Yes.

13:30:05 20 THE COURT: Do you have -- at the time that
21 decision was made, did you have full understanding of the
22 consequences of entering a plea of guilty?

23 THE DEFENDANT: Yes.

24 THE COURT: Sir, at the time that you decided to
13:30:21 25 enter into this agreement, were you under the influence of any

1 alcohol, drugs, medication or other intoxicants?

2 THE DEFENDANT: No.

3 THE COURT: Today, sir, as you appear in court, are
4 you under the influence of any drugs, alcohol, medication or
13:30:38 5 other intoxicants?

6 THE DEFENDANT: No.

7 THE COURT: Other than what might be considered
8 normal nervousness at appearing in court and offering a plea
9 of guilty, do you have mental reservations, sir, about what
13:30:54 10 you are doing?

11 THE DEFENDANT: No.

12 THE COURT: Sir, you indicated that you reviewed
13 the document, Statement By Defendant in Advance of Plea of
14 Guilty, and understood its contents. That document contains a
13:31:11 15 recitation of your constitutional rights. However, because of
16 their importance to you and because if I accept a plea of
17 guilty, you will be giving up each and every one of those
18 rights and there will be no trial, I want to go over those
19 rights with you on the record and then I will ask you some
13:31:37 20 questions concerning them.

21 Sir, you have a right to continue in your plea of
22 not guilty. You have a right to proceed to trial. You would
23 have a right to have a jury trial made up of 12 citizens of
24 the District of Utah, which happens also to be the state of
13:31:59 25 Utah. You would have the right to have an open public trial.

1 You would have the right to require the United States to
2 present in open court its witnesses and evidence against you.
3 Just as you have had at each of the critical stages of the
4 prosecution against you, you've been represented by counsel,
13:32:23 5 in this case, Ms. Gorman, and you would continue to have the
6 right to be represented by her. Through her services, sir,
7 you would have the right to confront and cross-examine all
8 witnesses against you. And you would have the right through
9 your counsel to challenge the introduction of evidence against
13:32:49 10 you.

11 Sir, you would have the right to call witnesses of
12 your own at government expense. You would have the right to
13 take the witness stand and testify in your own behalf, but if
14 you did so it would be under oath and subject to
13:33:08 15 cross-examination. Or, sir, you could exercise your absolute
16 right under the United States Constitution to offer no
17 testimony against yourself, and no negative inference could be
18 drawn against you for your decision to remain silent.

19 You could not be found guilty, sir, of any offense
13:33:31 20 charged against you unless there was a unanimous verdict as to
21 your guilt. And that would have to be based upon the finding
22 that the evidence of the United States as to each element of
23 the offense had been proved beyond a reasonable doubt. In the
24 event, sir, that you were convicted of any offense as to that
13:33:56 25 offense, you would have the right to appeal from any legal

1 errors you believe were made during the course of the
2 prosecution, the trial and the sentencing process.

3 If I accept your plea of guilty, sir, you will be
4 giving up each and every one of those rights with the
13:34:18 5 exception of some limited rights to appeal, which if they
6 exist are included within this statement in advance of plea of
7 guilty.

8 Sir, do you understand that you have each of those
9 constitutional rights?

13:34:36 10 THE DEFENDANT: Yes.

11 THE COURT: And do you understand that if you enter
12 the plea today there you will be giving up each and every one
13 of them and there will be no trial?

14 THE DEFENDANT: Yes.

13:34:47 15 THE COURT: Knowing that, sir, do you still wish to
16 proceed?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. Ms. Dain, at this time,
19 would you summarize the agreement reached between Mr. Clark
13:35:02 20 and the United States?

21 MS. DAIN: Yes, Your Honor.

22 Mr. Clark agrees to plead guilty to Count One of
23 the indictment. He also agrees that under the Sex Offender
24 Registration and Notification Act that he will register and
13:35:16 25 keep the registration current in his -- for the location of

1 his residence, the location of his employment, and if he's a
2 student the location of his school. That registration
3 requires the information to include his name, the address,
4 name and address of any place at which he will be employed or
13:35:32 5 a student. He understands that he must update those
6 registrations no later than three business days after any
7 change of name, residence, employment or student status. And
8 if he fails to do so, there is a potential for prosecution
9 under a separate criminal statute 18 United States Code
13:35:49 10 Section 2250 for failure to register, which is punishable by
11 fine or imprisonment or both.

12 Mr. Clark also agrees to cooperate with the United
13 States Probation Office in the completion of the probation
14 48 Financial Packet within three weeks of this change of plea.
13:36:10 15 Mr. Clark agrees that pursuant to Section 18 United States
16 Code Section 2259 and Section 3663A that he's obligated to
17 make restitution, and that the court, Judge Campbell, will be
18 obligated to order that restitution. He understands that the
19 amount of restitution and the scheduled payments will be set
13:36:32 20 at the sentencing, and he is liable for the full amount of
21 restitution owed. There is a separate statute that governs
22 the payment of restitution, and Ms. Gorman has explained the
23 consequences of an order of restitution to him.

24 Mr. Clark also understands that the government will
13:36:53 25 recommend that the Court, and he agrees, that the Court should

1 order that even during the period of incarceration he will be
2 on a scheduled payments of \$10 every three months or
3 50 percent of his income in prison, and he agrees to pay
4 during any period of incarceration. And Mr. Clark agrees that
13:37:13 5 his payment of restitution should be -- is also a condition or
6 any term of probation or supervised release to continue during
7 that time.

8 Mr. Clark agrees to be placed on a Treasury Offset
9 Program and the State Finder in order to assist in the payment
13:37:31 10 of restitution. He's also agrees to forfeit any interest in
11 several items that were related to the offense, including two
12 desktop computers, one laptop computer, one external hard
13 drive, two internal hard drives, two zip drives, four SD
14 cards, eight CDs, a video/audio recording device which
13:37:55 15 included a 2 gigabyte micro SD card.

16 And, Your Honor, I would like to place on the
17 record that I believe some of that is under the ownership of
18 other parties that were at the residence. And we will make
19 every effort to return anything that does not contain
13:38:15 20 contraband to the parties, and actually would give that back.

21 Mr. Clark warrants that he's the sole owner of the
22 property above, which may not be the case. He may have
23 control of those items is a better way to put it because
24 again, I think one of the computers is another family
13:38:32 25 member's.

1 He agrees to hold the United States agents and
2 employees harmless for any claims in connection with seizure
3 or forfeiture covered by this agreement. He agrees to waive
4 all interest in any asset, in any administrative judicial
13:38:47 5 forfeiture proceeding, whether criminal or civil, state or
6 federal. He agrees to an entry order of forfeiture under the
7 Rules of Criminal Procedure and that the forfeiture will be
8 incorporated into the sentencing and into the judgment.

9 He also agrees that to waive all constitutional
13:39:15 10 statutory challenges in any manner to this forfeiture
11 proceeding as to the property involved in this case.

12 Mr. Clark also agrees that if he fails to fulfill
13 any obligation under this plea agreement or withdraw his
14 guilty plea, he will not assert any claim under the United
13:39:36 15 States Constitution, any statute, Rule 410 of the Federal
16 Rules of the Evidence or Rule 11F of the Federal Rules of
17 Criminal Procedure or any other federal rule. And his
18 statements made pursuant to this agreement or any leads
19 derived therefrom should be suppressed or inadmissible at any
13:39:50 20 trial hearing or other proceeding.

21 In exchange for that, the United States agrees to
22 dismiss Count Two at the time of sentencing to incorporate all
23 possible reductions available to Mr. Clark that are applicable
24 to his guideline range and to recommend that Mr. Clark should
13:40:10 25 be sentenced at the low end of the guidelines.

1 THE COURT: Ms. Dain, is that the entire agreement
2 as was clarified with the clarifications made earlier as the
3 government understands it?

4 MS. DAIN: Yes, Your Honor.

13:40:24 5 THE COURT: All right. And, Ms. Gorman?

6 MS. GORMAN: It is, Your Honor. I did want to
7 indicate that my client is not the sole owner. It was marital
8 property. And he is certainly agreeable to giving up any
9 right he has in whatever portion of that property.

Also there is not a restitution figure as of yet.

11 And as I indicated to Mr. Clark, I'm assuming that will be
12 counseling, things like that, and that that would be
13 submitted. He does have insurance. We haven't seen any bills
14 yet. And again, there is no restitution as of yet.

13:41:02 15 THE COURT: And I assume that that will be
16 determined by Judge Campbell.

17 MS. DAIN: Yes, Your Honor. We'll put something
18 together prior to sentencing.

19 THE COURT: All right. With those clarifications,
13:41:12 20 is that the entire agreement, Ms. Gorman, as you understand
21 it?

22 MS. GORMAN: Yes, Your Honor.

23 THE COURT: Mr. Clark, is that the entire agreement
24 as you understand it?

13:41:19 25 THE DEFENDANT: Yes.

1 THE COURT: All right. Calling your attention now,
2 sir, to Page 3 of the Statement in Advance of Plea of Guilty,
3 I'm going to read into the record the statements of facts that
4 has been included therein, and then reminding you, sir, that
5 you're under oath, I'm going to ask you some questions about
6 it.

7 It states: Between October 2009 and continuing
8 until February 2011, in the Northern Division of the District
9 of Utah, I knowingly used -- and by "I" it means you, sir --
0 knowingly used a child who was born in 1997 to engage in
1 sexually explicit conduct for the purpose of producing a
2 visual depiction of such conduct. Specifically I
3 surreptitiously recorded the victim in the bathroom and also
4 photographed the sleeping child while I held her hands on my
5 penis and while I dangled my penis over her mouth. To produce
6 the visual depiction of this sexually explicit conduct, I used
7 cameras and computer equipment that had been mailed, shipped
8 or transported in interstate or foreign commerce in violation
9 of Title 18 United States Code Section 2251A.

13:42:52 20 Sir, is that statement of facts true and correct?

21 THE DEFENDANT: Yes.

22 THE COURT: Does it accurately describe your
23 conduct?

24 THE DEFENDANT: Yes.

13:43:01 25 THE COURT: Does it accurately describe your

1 intentions?

2 THE DEFENDANT: Yes.

3 THE COURT: Does it accurately describe your
4 knowledge?

13:43:09 5 THE DEFENDANT: Yes.

6 THE COURT: Then at this time, Ms. Gorman, if your
7 client is prepared to sign the document.

8 I will also ask, Ms. Dain, do you believe the Court
9 has complied with Rule 11 requirements? And if not, do you
13:43:31 10 have any suggested questions?

11 MS. DAIN: No, Your Honor. I believe the
12 compliance is complete and thorough.

13 THE COURT: Ms. Gorman?

14 MS. GORMAN: I believe it has been complied with,
13:43:41 15 as well. And, Your Honor, we have all executed this. Would
16 you like me to approach with it?

17 THE COURT: Yes. Thank you.

18 I acknowledge receipt of the written document,
19 Statement By Defendant in Advance of Plea of Guilty, signed by
13:43:59 20 Mr. Clark in open court. It's also been signed by his counsel
21 and counsel for the United States.

22 Mr. Clark, at this time, I must finally ask you,
23 what is your, and formally, what is your plea to Count One of
24 the indictment, production of child pornography?

13:44:24 25 THE DEFENDANT: Guilty.

1 THE COURT: Sir, and you may be seated. I accept
2 your plea of guilty, find that it was knowingly, voluntarily
3 and intelligently entered and that there was a factual basis
4 for the acceptance of the plea.

13:44:44 5 This matter will be set for sentencing or is set
6 for sentencing before Judge Campbell on September 10th at
7 2 o'clock p.m.

8 Ms. Dain?

9 MS. DAIN: Your Honor, I'm sure we'll probably have
13:44:58 10 to contact the Court. But the United States would be asking
11 Your Honor to sign an order for a psychosexual examination,
12 which would then bump that out to 120 days to account for the
13 additional time for the testing. And I think that would put
14 it in about mid October. But I don't know if you have
13:45:15 15 Judge Campbell's calendar to do that.

16 THE COURT: We can take care of that. But it
17 depends.

18 Ms. Gorman, are you in agreement?

19 MS. GORMAN: I am, Your Honor.

13:45:25 20 THE COURT: All right. And --

21 MS. DAIN: May I approach, Your Honor?

22 THE COURT: Mr. McBride, are those dates
23 sufficient -- or I'm sorry.

24 PROBATION OFFICER: That's okay. On or after
13:45:40 25 October 17th.

1 THE COURT: All right. Thank you.

2 THE CLERK: Sentencing is set for October 22nd at
3 2:00 p.m. before Judge Campbell.

4 MS. GORMAN: Your Honor, I was wondering, could we
5 go the next day, Tuesday, as opposed to Monday?

13:45:55 5 go the next day, Tuesday, as opposed to Monday?

6 THE CLERK: Yes. We can do Tuesday the 23rd at
7 2:00 p.m.

8 MS. GORMAN: That would be great.

11 Mr. Clark, there will be two -- well, there will be
12 the examination which we've referenced and also the
13 preparation of a presentence report. I advise you, sir, to
14 cooperate in the preparation of both of those matters. Your
13:46:37 15 participation and cooperation will be in part relied upon by
16 Judge Campbell in making a sentencing determination.

17 Ms. Groussman, who is seated over your right
18 shoulder, will introduce herself to you. And she will give
19 you information concerning the appointment that she will have
13:47:02 20 with you, the interview, and I think she can give you all
21 other information.

22 I did receive a written report from Mr. McBride
23 concerning Mr. Clark's participation and how he's done on
24 pretrial release. That report indicates that he has been in
13:47:28 25 compliance in all regards. Is there any reason to consider

1 any modifications or changes based on that?

2 MS. DAIN: No, Your Honor.

3 MS. GORMAN: No, Your Honor.

4 THE COURT: All right. Then, Mr. Clark, good luck
13:47:42 5 to you, sir.

6 THE DEFENDANT: Thank you.

7 THE COURT: All right. Anything further?

8 MS. DAIN: No. Thank you, Judge. Not from us,
9 Your Honor. Thank you.

13:47:48 10 THE COURT: Thank you. We're in recess on this
11 matter.

12 (Whereupon, the court proceedings were concluded.)

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1 STATE OF UTAH)
2) ss.
3 COUNTY OF SALT LAKE)

4 I, KELLY BROWN HICKEN, do hereby certify that I am
5 a certified court reporter for the State of Utah;

6 That as such reporter, I attended the hearing of
7 the foregoing matter on June 20, 2012, and thereat reported in
8 Stenotype all of the testimony and proceedings had, and caused
9 said notes to be transcribed into typewriting; and the
10 foregoing pages number from 3 through 24 constitute a full,
11 true and correct report of the same.

12 That I am not of kin to any of the parties and have
13 no interest in the outcome of the matter;

14 And hereby set my hand and seal, this _____ day of
15 _____ 2014.

20 _____
21 KELLY BROWN HICKEN, CSR, RPR, RMR
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